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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

COREL SOFTWARE, LLC,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Case No. 2:15-cv-00528-JNP-DBP

**COREL'S NOTICE OF  
SUPPLEMENTAL AUTHORITY**

ORAL ARGUMENT REQUESTED

District Judge Jill N. Parrish  
Chief Magistrate Judge Dustin B. Pead

Plaintiff Corel Software, LLC submits this Notice of Supplemental Authority to inform the Court about the Federal Circuit’s recent decision in *Fintiv, Inc. v. Apple Inc.*, No. 2023-2208, 2025 WL 1419363 (Fed. Cir. May 16, 2025) (unpublished). *See* Local Rule DUCivR 7-1(c). *Fintiv* is relevant to Microsoft’s pending Motion for Summary Judgment of Non-Infringement by the accused Microsoft Excel products because *Fintiv* addresses the very issue raised by Microsoft: the evidence sufficient to raise a triable issue of material fact that an accused product includes a software-implemented limitation. *See* Dkt. 387 at 20-21.

In *Fintiv*, the Federal Circuit reversed summary judgment of non-infringement, finding that genuine issues of material fact existed whether a software element—a claimed “widget”—existed in the accused products. *Fintiv*, 2025 WL 141363 at \*1-2. In granting summary judgment in favor of the defendant, Apple, the district court found that “Fintiv and its expert witness [] ‘failed to identify the claimed widget in the accused products.’” *Id.* at \*2. The district court reasoned that “nowhere does Fintiv’s opposition state that ‘the “widget” in the accused product is X,’ where X is an identifiable piece of software, as required by the [c]ourt’s construction.” *Id.* (quoting *Fintiv, Inc. v. Apple Inc.*, No. 21-CV-896, 2023 WL 4237356, at \*4 (W.D. Tex. June 21, 2023)).

The Federal Circuit disagreed, stating that “Fintiv proffered sufficient evidence to create a genuine issue of material fact that a widget exists in the accused products.” *Id.* at \*3. In so holding, the Federal Circuit explained that “[a] patentee may prove infringement by ‘any method of analysis that is probative of the fact of infringement,’ and circumstantial evidence may be sufficient.” *Id.* at \*4 (quoting *Martek Bioscis. Corp. v. Nutrinova, Inc.*, 579 F.3d 1363, 1372 (Fed. Cir. 2009)). Fintiv’s expert had provided testimony related to “observed functionality in the

accused products as circumstantial evidence of a widget.” *Id.* The Federal Circuit reasoned that “[a]lthough [the expert] did not identify the precise source code that makes up the alleged widget, drawing reasonable inferences in favor of Fintiv, the non-moving party, Fintiv’s evidence is sufficient for a reasonable jury to find that software provides the functionality [the expert] observed and identified in the accused products.” *Id.* at \*5. In sum, “[t]hat a plaintiff seeks to prove infringement of computer-implemented technology by evidence other than source code does not mean that infringing source code does not exist.” *Id.*

Here too, Microsoft has argued non-infringement on the alleged basis that Corel’s expert, Dr. Bederson, did not map the term “font command code” to a specific line of code in the accused Excel products. Dkt. 387 at 20. Here too, Corel’s expert relied on both source code and non-source code evidence (including observed functionality of the accused products) to conclude that the accused Excel products satisfy the limitations of the asserted claims including the “font command code.” Dkt. 404 at 21-22.

Because Corel has proffered sufficient evidence to create a genuine issue of material fact that the accused Excel Products contain a “font command code” as recited in the relevant claim limitations, the Court should deny Microsoft’s Motion for Summary Judgment of Non-Infringement by the accused Excel Products.

DATED: May 30, 2025

Respectfully submitted,

/s/ Aaron R. Fahrenkog

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**CERTIFICATE OF SERVICE**

I certify that on May 28, 2025, I served a copy of the foregoing document on the following counsel of record for Microsoft Corporation, via the Court's ECF system:

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DATED: May 30, 2025

By: /s/ Kade N. Olsen